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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,540	12/31/2003	Richard F. Gladney	SMCY-P02-099	5566
28120	7590	05/01/2008		
ROPES & GRAY LLP PATENT DOCKETING 39/41 ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624			EXAMINER CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	
			MAIL DATE	DELIVERY MODE
			05/01/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/750,540	<b>Applicant(s)</b> GLADNEY, RICHARD F.	
	<b>Examiner</b> FREDRICK C. CONLEY	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

In view of the Applicant's arguments filed on 1/14/08, PROSECUTION IS  
HEREBY REOPENED. As set forth below.

To avoid abandonment of the application, appellant must exercise one of the  
following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply  
under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed  
by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and  
appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth  
in 37 CFR 41.20 have been increased since they were previously paid, then appellant  
must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by  
signing below:

/Patricia L Engle/

Supervisory Patent Examiner, Art Unit 3673

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 2005/0000026 to Gladney.

Claims 14 and 16, Zocco discloses a mattress comprising  
a substantially rigid bottom panel/platform (10) consisting of foam;  
a perimeter sidewall (20) joined to the bottom panel, said bottom panel and  
perimeter sidewall defining an interior cavity; and  
an innercore 40 having a bottom surface 3 disposed within the cavity,  
wherein said portion of the bottom surface of the bottom surface of the innercore  
is joined to the bottom panel by an adhesive wherein the adhesive applied in a region  
proximate to the perimeter of the side wall with a remaining portion being unattached to  
the bottom panel (page 3 paragraphs 39-42).

Claims 15 and 24, wherein the inner core is a fabric-encased spring coil (page 2 paragraph 31).

Claim 17, wherein the platform comprises a plurality of layers (page 2 paragraph 29)

Claim 18, wherein the mattress is a two sided mattress, with the platform capable of forming a second sleeping surface.

Claims 19 and 22, wherein the platform comprises a high density polyurethane foam having a density of approximately 1.85 lbs./cu.ft. and a firmness above 30 ILD (page 2 paragraph 29).

Claim 20, further comprising an upholstery layer 72) disposed over a top surface of the innercore.

Claim 21, wherein the perimeter sidewall is made of foam (page 2 paragraph 26).

Claim 23, wherein the bottom panel forms a substantially rigid base platform that comprises a layer made of foam and providing support to the innercore.

Claim 25, wherein the innercore comprising a block of resilient foam 3 (page 2 paragraph 29).

Claim 26, wherein the perimeter sidewall is attached to a peripheral region of a major surface of the bottom panel by an adhesive (page 3 paragraphs 39-42).

Claim 27, wherein the perimeter sidewall comprises a plurality of sidewall sections (fig.3-4).

Claim 28, further comprising a wire for securing the innercore against the substantially rigid bottom panel (page 3 paragraph 35).

### ***Response to Arguments***

Applicant's arguments with respect to claims 14-28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is (571)272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FREDRICK C CONLEY/  
Examiner, Art Unit 3673